



1 On behalf of herself and all others similarly situated, Plaintiff Anam Abbas  
2 (“Plaintiff” or “Ms. Abbas”), by and through her attorneys, Mengedoth Law PLLC  
3 and Francis & Mailman, P.C., respectfully alleges as follows:  
4

### 5 **INTRODUCTION**

6 1. This is a consumer class action under the Fair Credit Reporting Act,  
7  
8 15 U.S.C. §§ 1681 *et seq.*, as amended (“FCRA”), brought on behalf of consumers  
9 against a company that sells background information for use in investigating  
10 applicants for credit, banking products (including checking and savings accounts)  
11 and applicants for employment and promotion in the financial services industry.  
12 Among other things, Defendant sells “Internal Fraud” warnings included in  
13 background reports to resellers of credit information, to potential employers and in  
14 reports to financial institutions. These warnings provide personal information  
15 about individual consumers, labelling them as fraudsters. Defendant sells these  
16 warnings for the purpose of assisting financial institutions to avoid hiring people  
17 who have allegedly defrauded financial institutions previously. Given the nature  
18 of these warnings, and the purposes for which they are regularly sold, Defendant is  
19 squarely regulated by the FCRA.  
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24 2. Consumers who subsequently learn they were improperly flagged as  
25 thieves or fraudsters dispute the inaccurate information with Defendant and/or with  
26 resellers of credit information and only then are the unverified and unverifiable  
27 notations removed from their reports. But that is too late, as a dispute usually  
28

comes only after an inaccurate report has been already sold to a prospective employer or creditor. Under FCRA section 1681e(b), however, Defendant, as a consumer reporting agency, is required to “follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates” in the first instance – every time it prepares a report. 15 U.S.C. § 1681e(b). Had Defendant actually followed such required procedures, these consumers, class members here, would never have been flagged as fraudsters in the first place.

3. Pursuant to 15 U.S.C. §§ 1681n and 1681o, Plaintiff seeks monetary relief for herself and a class of similarly situated consumers who, according to Defendant’s admissions, have inaccurate, incomplete and/or unverifiable Internal Fraud warnings placed on their background reports.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this matter based upon 28 U.S.C. § 1331 and 15 U.S.C. § 1681p in that all claims brought herein arise under the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.*

5. Venue is proper in this District, pursuant to 28 U.S.C. § 1391(b) because Defendant “resides” in this District as defined in 28 U.S.C. § 1391(c).

### **PARTIES**

6. Plaintiff Anam Abbas is an adult individual residing in Upper Darby, Pennsylvania.

1           7. Defendant Early Warning Services, LLC (“EWS”) is a business entity  
2 and credit reporting agency which has a principal place of business located at 8777  
3 E. Hartford Drive, Suite 110, Scottsdale, Arizona 85255.  
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## 5                           **FACTUAL ALLEGATIONS**

### 6                           **Defendant’s Practices as a Consumer Reporting Agency**

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8           8. Defendant markets itself as an industry leader in account threat  
9 detection on its website, stating that it “provides innovative risk management  
10 solutions to a diverse network of 1,100 financial institutions, government entities  
11 and payment companies, enabling businesses and consumers to transact with  
12 safety, speed, and convenience. Owned and governed by five of the largest banks  
13 in the United States, this unique business model facilitates a data exchange system  
14 based on collaborative intelligence and trusted exchange.” *See*  
15 <http://www.earlywarning.com/index.html>.  
16  
17

18           9. EWS is a nationwide specialty consumer reporting agency which  
19 sells, among other things, “Internal Fraud” and “Account Abuse” warnings to  
20 financial institutions as well as resellers of credit information. EWS is jointly  
21 owned by Wells Fargo, Bank of America, JPMorgan Chase, BB&T and Capital  
22 One. *See* <http://www.earlywarning.com/pdf/early-warning-corporateoverview.pdf>.  
23  
24

25           10. Upon information and belief, financial institutions furnish information  
26 relating to the alleged Internal Fraud warnings to EWS. EWS confirms that it  
27 serves approximately 1,100 such institutions and “[e]ach day hundreds of  
28

1 [financial institutions] contribute timely, accurate and relevant transactional data.  
2 [EWS] serves as custodian to this immense database, which reflects the activity of  
3 *approximately 50 percent* of the country’s eligible banking population.” *Id.*  
4 (emphasis added).  
5

6 11. As represented by Defendant EWS, the Internal Fraud warnings are a  
7  
8 useful tool for financial institutions in terms of theft prevention.

9 12. Upon information and belief, Defendant EWS sells consumer  
10 information, including the Internal Fraud warnings, to First Advantage BS  
11 (“FABS”), a reseller of consumer information, and possibly also to other resellers  
12 as well. Once FABS receives the requested consumer credit information, it  
13 assembles and merges the information into a FABS background credit report,  
14 which it then sells to third party employers and prospective employers for pre-  
15 employment and pre-promotion screening.  
16  
17

18 13. A FABS Pre-Employment/Security Screening report contains vast  
19 amounts of information about an employment applicant including employment  
20 verification, fingerprint verification through the FBI’s system, credit information  
21 from Experian, and the Internal Fraud warnings from EWS.  
22  
23

24 14. By selling such information for a fee with the anticipated or expected  
25 use of such reports by the entities referenced above, Defendant operates as a  
26 “consumer reporting agency” (“CRA”) and a nationwide specialty consumer  
27  
28

1 reporting agency (“NSCRA”) as defined by 15 U.S.C. § 1681a(f) and § a(x),  
2 respectively.

3  
4 15. Among other things, the FCRA regulates the collection, maintenance,  
5 and disclosure of consumer report information by CRAs and NSCRAs.

6  
7 16. Despite the fact that Defendant assembles and compiles consumer  
8 information for sale directly or indirectly to employers and credit insurers on a  
9 nationwide basis, Defendant does not observe any reasonable standard of accuracy  
10 regarding the Internal Fraud warnings contained within the reports.

11  
12 17. Upon information and belief, Defendant reports these Internal Fraud  
13 warnings without uniform standards defining what constitutes “fraud,” and allows  
14 financial institutions to furnish the warnings without requiring them to inform the  
15 employee or customer that it intends to report information about them to a national  
16 database.

17  
18 18. Upon information and belief, when Defendant uploads the fraud  
19 warnings into their system, it does not vet the accuracy of the furnished  
20 information. Any review, if at all, only occurs at such future time that a consumer  
21 disputes the information as inaccurate.

22  
23  
24 19. A fraud warning on a background report is generally very detrimental  
25 to an applicant’s employment opportunities, and/or credit and banking  
26 opportunities. This is understood by Defendant in its promotion of the product,  
27 representing that one of its purposes is to help its customers manage risk, in part by  
28

1 preventing them from unwittingly hiring someone who previously defrauded a  
2 financial institution.

3  
4 20. Many of Defendant's and/or its resellers' customers use background  
5 screening services as a final stage of the hiring process, reviewing consumer  
6 reports after selecting the job applicant for employment. As such, the potential  
7 employer ordinarily has already decided to hire the consumer, conditioned only  
8 upon passage of background checks, including the EWS Internal Fraud warnings.  
9

10 21. In addition, while Defendant will provide certain information to  
11 consumers upon written request, Defendant will not provide consumers with all of  
12 the information that the FCRA requires, including but not limited to, the identities  
13 of persons or entities who procured a report from the Defendant (often referred to  
14 as consumer report "inquiries").  
15  
16

17 22. Defendant's practice not only violates the FCRA as a matter of law, it  
18 exacts serious consequences on consumers and interstate commerce.  
19

20 23. Defendant negligently and willfully violates the FCRA by failing to  
21 comply with the requirements it places upon CRAs and NSCRAs to follow  
22 reasonable procedures to assure maximum possible accuracy.  
23

24 **The Facts Pertaining to Class Representative Plaintiff Anam Abbas**

25 24. In April 2014, Plaintiff was working as a bank teller at Bank of  
26 America, and had been working there for approximately four months. Plaintiff  
27 struggled with the position, and sometimes her cash drawer would be "short" (have  
28

1 less money than expected) or “over” (have more money than expected) at the end  
2 of the day.

3  
4 25. On or about April 16, 2014, she was accused of “force-balancing” her  
5 drawer so that it would balance correctly, but she had never engaged in that  
6 practice. Plaintiff was terminated by Bank of America, but she was not informed  
7 that Bank of America would report the alleged fraud to a national database that  
8 would render her unemployable in the financial sector.

9  
10 26. Bank of America is a co-owner of EWS, and participates in the EWS  
11 system.

12  
13 27. In or about February 2015, Plaintiff applied online for a personal  
14 banking position at a Citizens Bank branch.

15  
16 28. Plaintiff received a call from Citizens Bank, and was invited for an in-  
17 person initial interview with Brian Kohl, the manager.

18  
19 29. After the initial interview, she was invited back for a second in-person  
20 interview with the regional manager. After the second interview, she was offered  
21 the job pending the results of a background check. She signed an authorization  
22 form for Citizens Bank to request a pre-employment screening report through the  
23 bank’s electronic portal.

24  
25 30. Citizens Bank ordered a Pre-Employment/Security Screening  
26 (“Background Report”) about Plaintiff from FABS. As a result of that inquiry, on  
27  
28



1 or about February 24, 2015, Defendant FABS issued a Background Report about  
2 Plaintiff to Citizens Bank.

3  
4 31. The Background Report resold an EWS Early Warning Service  
5 identified as an “Internal Fraud Match” presumably furnished by Bank of America.  
6 The “Match Record 1” lists the severity as 100, provides names for Internal Fraud  
7 Prevention Contact Information, as well as Plaintiff’s name and the last four digits  
8 of her social security number. The “Case Information” includes Fraud Case  
9 Number CSI-227810, Incident Date 03/25/2014, Principal Loss 0.00, and Dispute  
10 Code 00. This Internal Fraud Match is the only derogatory information listed on  
11 Plaintiff’s Background Report.  
12  
13

14 32. Plaintiff received a call from Robert Cerece in Citizen Bank’s human  
15 resources department, advising her that she was ineligible for the position based  
16 upon information in the background report and she would receive a letter  
17 confirming that.  
18  
19

20 33. Citizens Bank, or another entity on its behalf, provided Plaintiff with a  
21 copy of the adverse Background Report and her rights under the FCRA.  
22

23 34. After reviewing the Background Report, Plaintiff disputed the fraud  
24 notation with Citizens Bank and she was advised by Mr. Cerece that the bank  
25 would hold her position open pending the results of her disputes.  
26

27 35. Subsequently, Plaintiff disputed the Internal Fraud warning with Bank  
28 of America directly and with FABS.

1           36. On or about April 2, 2015, Bank of America responded to Plaintiff's  
2 dispute by confirming that her record would be removed on the EWS system, it  
3 would request that Defendant and FABS delete the fraud warning from her report.  
4

5           37. On or about April 3, 2015, Plaintiff received a letter from EWS  
6 advising that its investigation "confirms that your file contains information which  
7 is incomplete, inaccurate or the accuracy of which cannot be verified." (Exhibit A  
8 hereto).  
9

10           38. On or about April 14, 2015, FABS also responded to Plaintiff's  
11 dispute by requesting verification of her personal identifying information and  
12 failed to inform her that the fraud warning had been or would be deleted from her  
13 report.  
14

15           39. Plaintiff suffered damages as a result of being falsely reported as  
16 having committed internal fraud, including delay, loss of employment opportunity,  
17 loss of wages and benefits, as well as emotional and reputational harm.  
18

19           40. At all times pertinent hereto, Defendant was acting by and through its  
20 agents, servants and/or employees who were acting within the course and scope of  
21 their agency or employment, and under the direct supervision and control of the  
22 Defendant herein.  
23

24           41. At all times pertinent hereto, the conduct of the Defendant, as well as  
25 that of its agents, servants and/or employees, was willful, reckless, and in grossly  
26 negligent disregard for federal laws and the rights of the Plaintiff herein.  
27  
28

**CLASS ACTION ALLEGATIONS**

42. Plaintiff brings this action pursuant to the Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of the following Classes:

a. Consumer Report Class:

All natural persons residing within the United States and its Territories regarding whom the Defendant published or caused to be published a consumer report for employment purposes which included an Internal Fraud warning that was later removed from the Early Warning System.

b. Letter Class:

All natural persons residing within the United States and its Territories to whom Defendant sent a letter substantially similar in form to the April 3, 2015 letter that Defendant sent to Plaintiff, attached hereto as Exhibit A.

Plaintiff reserves the right to amend the definition of the Classes based on discovery or legal developments.

43. **Numerosity. FED. R. CIV. P. 23(a)(1).** The Class members are so numerous that joinder of all is impractical. Upon information and belief, Defendant compiles and assembles standardized Internal Fraud warnings about hundreds of consumers per year, and fails to follow reasonable procedures to assure maximum possible accuracy of those warnings, and those consumers' names and addresses are identifiable through documents maintained by Defendant.

44. **Existence and Predominance of Common Questions of Law and**

1 **Fact. FED. R. CIV. P. 23(a)(2).** Common questions of law and fact exist as to all  
2 Class members, and predominate over the questions affecting only individual  
3 members. The common legal and factual questions include, among others:  
4

5 Whether Defendant acted willfully and negligently in disregard of the FCRA  
6 by failing to follow reasonable procedures to assure maximum possible accuracy of  
7 consumer information in publishing Internal Fraud warnings.  
8

9 45. **Typicality. FED. R. CIV. P. 23(a)(3).** Plaintiff's claims are typical of  
10 the claims of each Class member. Plaintiff has the same claims for statutory,  
11 actual and punitive damages that she seeks for absent Class members.  
12

13 46. **Adequacy. FED. R. CIV. P. 23(a)(4).** Plaintiff is an adequate  
14 representative of the Classes. Her interests are aligned with, and are not  
15 antagonistic to, the interests of the Class members she seeks to represent. She has  
16 retained counsel competent and experienced in such litigation, and she intends to  
17 prosecute this action vigorously. Plaintiff and her counsel will fairly and  
18 adequately protect the Class members' interests.  
19  
20

21 47. **Predominance and Superiority. FED. R. CIV. P. 23(b)(3).**  
22 Questions of law and fact common to the Class members predominate over  
23 questions affecting only individual members, and a class action is superior to other  
24 available methods for fair and efficient adjudication of the controversy. The  
25 statutory, actual and punitive damages sought by each member are such that  
26 individual prosecution would prove burdensome and expensive given the complex  
27  
28

1 and extensive litigation necessitated by Defendant's conduct. It would be virtually  
 2 impossible for the Class members, individually, to redress effectively the wrongs  
 3 done to them. Even if the Class members themselves could afford such individual  
 4 litigation, it would be an unnecessary burden on the courts. Furthermore,  
 5 individualized litigation presents a potential for inconsistent or contradictory  
 6 judgments and increases the delay and expense to all parties and to the court  
 7 system presented by the complex legal and factual issues raised by Defendant's  
 8 conduct. By contrast, the class action device will result in substantial benefits to  
 9 the litigants and the Court by allowing the Court to resolve numerous individual  
 10 claims based upon a single set of proof in a unified proceeding.  
 11  
 12  
 13

## **CAUSES OF ACTION**

### **COUNT I**

#### **Fair Credit Reporting Act, 15 U.S.C. § 1681e(b) (On behalf of Plaintiff and the Classes)**

14  
 15  
 16  
 17  
 18 48. Plaintiff realleges and incorporates by reference all preceding  
 19 paragraphs as alleged above.

20 49. Plaintiff is a "consumer," as defined by the FCRA, 15 U.S.C. §  
 21 1681a(c).  
 22

23 50. Defendant is a "person," a "consumer reporting agency," and a  
 24 "nationwide specialty consumer reporting agency" as defined by the FCRA, 15  
 25 U.S.C. § 1681a(b), § 1681a(f) and § 1681a(x), respectively.  
 26  
 27  
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1           51. The above-mentioned reports were “consumer reports” used for  
2 “employment purposes” within the meaning of 15 U.S.C. §§ 1681a(d) and  
3 1681a(h).  
4

5           52. Defendant’s Internal Fraud warnings are not compiled by following  
6 procedures that assure maximum possible accuracy.  
7

8           53. The inaccuracy of the Internal Fraud warnings about Plaintiff, and  
9 others, published to employers and potential employers was due to Defendant’s  
10 failure to follow reasonable procedures designed to assure maximum possible  
11 accuracy, in violation of 15 U.S.C. § 1681e(b). Defendant simply reports any and  
12 all information furnished to it by financial institutions, and designed this database  
13 in reckless disregard of the truth and of the reputation and personal interests of the  
14 consumers who are labeled with these warnings.  
15  
16

17           54. Defendant is liable for willfully and negligently violating section  
18 1681e(b) of the FCRA by failing to comply with the requirements to follow  
19 reasonable procedures designed to assure maximum possible accuracy of consumer  
20 information.  
21

22           55. Defendant’s actions cause harm to job applicants and employees such  
23 as Plaintiff as more fully described above.  
24

25                           **PRAYER FOR RELIEF**

26           WHEREFORE, Plaintiff and the Classes pray for relief as follows:  
27  
28

1       A.     An order certifying the case as a class action on behalf of the  
2 proposed Classes under Federal Rule of Civil Procedure 23 and appointing  
3 Plaintiff and the undersigned counsel of record to represent same;  
4

5       B.     An award of statutory, actual and punitive damages for Plaintiff and  
6 the Classes;  
7

8       C.     An award of attorneys' fees and costs; and,  
9

10       D.    Such other relief as the Court deems just and proper.  
11

12                                   **JURY DEMAND**  
13

14       Plaintiff hereby requests and demands a trial by jury.  
15

16       Dated: October 2, 2015.

17       Respectfully submitted,  
18

19                                   /s/ Paul Mengedoth  
20

21       Paul B. Mengedoth, Esq. (018507)

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